

## **DECLARATION OF EMERGENCY**

### **Department of Children and Family Services Economic Stability Section**

#### **Use of TANF Benefits (LAC 67:III.1259 and 5351)**

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (B), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 2 Family Independence Temporary Assistance Program (FITAP), Chapter 12, Subchapter B, Section 1259 and Subpart 13 Kinship Care Subsidy Program (KCSP), Chapter 53, Subchapter B, Section 5351. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the Final Rule takes effect. This Emergency Rule extension is effective on August 18, 2014 and will remain in effect until the Final Rule becomes effective.

Sections 1259 and 5351 are being amended to prevent the use of cash assistance provided under the FITAP and KCSP programs from being used in any electronic benefit transfer (EBT) transaction at certain types of retailers and establishments or at any retailer for the purchase of jewelry.

The department considers emergency action necessary to facilitate the expenditure of TANF funds. This action is aimed at preventing TANF transactions at certain types of retailers or establishments determined to be inconsistent with the purpose of TANF, which is to provide cash assistance to eligible families to help pay for ongoing basic needs, such as food, shelter, and clothing. The authorization to promulgate emergency rules to facilitate the expenditure of TANF funds is contained in Act 14 of the 2013 Regular Session of the Louisiana Legislature.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part III. Economic Stability**

#### **Subpart 2. Family Independence Temporary Assistance Program**

#### **Chapter 12. Application, Eligibility, and Furnishing Assistance**

#### **Subchapter B. Conditions of Eligibility**

#### **§1259. Use of FITAP Benefits**

A. FITAP benefits shall not be used in any electronic benefit transfer transaction in:

1. any liquor store;
2. any gambling casino or gaming establishment;
3. any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes, any adult bookstores, any adult paraphernalia store, or any sexually oriented business;
4. any tattoo, piercing, or commercial body art facility;
5. any nail salon;
6. any jewelry store;
7. any amusement ride, amusement attraction, or video arcade;
8. any bail bonds company;
9. any night club, bar, tavern, or saloon;
10. any cruise ship;
11. any psychic business; or
12. any establishment where persons under age 18 are not permitted.

B. FITAP benefits shall not be used in any electronic benefit transfer transaction at any retailer for the purchase of:

1. an alcoholic beverage as defined in R.S. 14.93.10(3);
  2. a tobacco product as defined in R.S. 14.91.6(B);
  3. a lottery ticket as defined in R.S. 47:9002(2);
- or
4. jewelry.

C. For purposes of this Section, the following definitions and provisions apply.

1. The term liquor store is defined as any retail establishment that sells exclusively or primarily intoxicating liquor. It does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods.

2. The terms gambling casino and "gaming establishment" do not include a grocery store that sells groceries, including staple foods, and that also offers, or is located within the same building or complex as casino, gambling, or gaming activities, or any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

3. The term electronic benefit transfer transaction means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

4. The term commercial body art facility is defined as any location, place, area, or business whether permanent or temporary, which provides consumers access to personal services workers who for remuneration perform any of the following procedures:

a. tattooing or the insertion of pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin;

b. body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; but does not for the purposes of this Part, include piercing an ear with a disposable, single use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear; or

c. the application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

5. Adult paraphernalia store is defined as an establishment having a substantial or significant portion of its stock, including but not limited to, clothing, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement.

6. Nail salon is defined as a commercial establishment that provides nail services of any kind including, but not limited to trimming, filing, decorating, shaping, sculpting, or in any way caring for the nails and skin of another person's hands or feet together with massaging the hands, arms, legs, and feet.

7. Jewelry is defined as consisting of precious stones and/or precious metals worn as adornment or apparel. This includes costume jewelry.

8. Amusement attraction is defined as any building or structure which provides amusement, pleasure, thrills, or

excitement. This includes movie theaters and video arcades. "Amusement attraction" does not include any enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

9. Amusement ride is defined as any mechanized device or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. This includes inflatables.

10. Bail is defined as security given by a person to assure his appearance, or a third-party's, before the proper court whenever required.

11. Bar is defined as business that holds a Class A-General retail permit and the primary purpose of such business is to serve alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets. As further defined by R.S. 1300:253.

12. Cruise ship is defined as any commercial ship used for the domestic or international carriage of passengers.

13. Psychic is defined as any person or establishment engaged in the occupation of occult science including a fortune-teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, psychic or advisor or who in any other manner claims or pretends to tell fortunes or claims or pretends to disclose mental faculties of individuals for any form of compensation.

D. The FITAP case of a FITAP recipient who is determined to have violated the provisions of this Section shall be closed for the following time periods:

1. 12 months for the first offense;
2. 24 months for the second offense; and
3. permanently for the third offense.

AUTHORITY NOTE: Promulgated in accordance with P.L. 112-96.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 39:3061 (November 2013), amended LR 40:

### **Subpart 13. Kinship Care Subsidy Program (KCSP)**

#### **Chapter 53. Application, Eligibility, and Furnishing Assistance**

#### **Subchapter B. Conditions of Eligibility**

##### **§5351. Use of KCSP Benefits**

A. KCSP benefits shall not be used in any electronic benefit transfer transaction in:

1. any liquor store;
2. any gambling casino or gaming establishment;
3. any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes, any adult bookstores, any adult paraphernalia store, or any sexually oriented business;
4. any tattoo, piercing, or commercial body art facility;
5. any nail salon;
6. any jewelry store;
7. any amusement ride, amusement attraction, or video arcade;
8. any bail bonds company;
9. any night club, bar, tavern, or saloon;
10. any cruise ship;
11. any psychic business; or

12. any establishment where persons under age 18 are not permitted.

B. KCSP benefits shall not be used in any electronic benefit transfer transaction at any retailer for the purchase of:

1. an alcoholic beverage as defined in R.S. 14.93.10(3);
2. a tobacco product as defined in R.S. 14.91.6(B);
3. a lottery ticket as defined in R.S. 47:9002(2); or
4. jewelry;

C. For purposes of this Section, the following definitions and provisions apply.

1. The term *liquor store* is defined as any retail establishment that sells exclusively or primarily intoxicating liquor. It does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods.

2. The terms *gambling casino* and *gaming establishment* do not include a grocery store that sells groceries, including staple foods, and that also offers, or is located within the same building or complex as casino, gambling, or gaming activities, or any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

3. The term *electronic benefit transfer transaction* means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

4. The term *commercial body art facility* means any location, place, area, or business whether permanent or temporary, which provides consumers access to personal services workers who for remuneration perform any of the following procedures:

a. tattooing or the insertion of pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin;

b. body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; but does not for the purposes of this Part, include piercing an ear with a disposable, single use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear; or

c. the application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

5. *Adult paraphernalia store* is defined as an establishment having a substantial or significant portion of its stock, including, but not limited to, clothing, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement.

6. *Nail salon* is defined as a commercial establishment that provides nail services of any kind including, but not limited to trimming, filing, decorating, shaping, sculpting, or in any way caring for the nails and skin of another person's hands or feet together with massaging the hands, arms, legs, and feet.

7. *Jewelry* is defined as consisting of precious stones and/or precious metals worn as adornment or apparel. This includes costume jewelry.

8. *Amusement attraction* is defined as any building or structure which provides amusement, pleasure, thrills, or excitement. This includes movie theaters and video arcades. *Amusement attraction* does not include any enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

9. *Amusement ride* is defined as any mechanized device or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. This includes inflatables.

10. *Bail* is defined as security given by a person to assure his appearance, or a third-party's, before the proper court whenever required.

11. *Bar* is defined as business that holds a Class A-General retail permit and the primary purpose of such business is to serve alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets. As further defined by R.S. 1300:253.

12. *Cruise ship* is defined as any commercial ship used for the domestic or international carriage of passengers.

13. *Psychic* is defined as any person or establishment engaged in the occupation of occult science including a fortune-teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, psychic or advisor or who in any other manner claims or pretends to tell fortunes or claims or pretends to disclose mental faculties of individuals for any form of compensation.

D. The KCSP case of a KCSP recipient who is determined to have violated the provisions of this Section shall be closed for the following time periods:

1. 12 months for the first offense;
2. 24 months for the second offense; and
3. permanently for the third offense.

AUTHORITY NOTE: Promulgated in accordance with P.L. 112-96.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 39:3061 (November 2013), amended LR 40:

Suzy Sonnier  
Secretary